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A Limited Liability Partnership  
2 Including Professional Corporations  
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TICKETMASTER L.L.C. (erroneously  
7 sued as TICKETMASTER  
ENTERTAINMENT, INC.)  
8

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION  
11

12 ABDUL NEVAREZ and PRISCILLA  
NEVAREZ,

13 Plaintiff,

14 v.  
15

16 FORTY NINERS FOOTBALL  
COMPANY, LLC, a Delaware limited  
liability company; FORTY NINERS SC  
17 STADIUM COMPANY, LLC, a  
Delaware limited liability company;  
18 NATIONAL FOOTBALL LEAGUE;  
CITY OF SANTA CLARA; SANTA  
19 CLARA STADIUM AUTHORITY;  
TICKETMASTER  
20 ENTERTAINMENT, INC.; FORTY  
NINERS STADIUM MANAGEMENT  
21 COMPANY LLC; and DOES 1-10,  
Inclusive,,  
22

23 Defendants.  
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Case No. 5:16-cv-07013-LHK  
The Hon. Hon. Lucy H. Koh

**DEFENDANT TICKETMASTER  
L.L.C.'S (erroneously sued as  
TICKETMASTER  
ENTERTAINMENT, INC.)  
ANSWER TO COMPLAINT;  
DEMAND FOR JURY TRIAL**

Action Filed:  
Trial Date:

December 30, 2016  
None Set

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1 tickets to the stadium are available through Ticketmaster. As to the remaining  
2 allegations, Defendant is without sufficient knowledge or information to form a  
3 belief as to the truth of those allegations, and on that basis, denies them.

4       9.     Answering Paragraph 9 of the Complaint, Defendant is not required to  
5 answer legal conclusions and argument, and on that basis, denies each and every  
6 allegation.

7       10.    Answering Paragraph 10 of the Complaint, Defendant denies each and  
8 every allegation.

9                                   **FACTUAL ALLEGATIONS**

10       11.    Answering Paragraph 11 of the Complaint, Defendant is not required to  
11 answer legal conclusions and argument, and on that basis, denies each and every  
12 allegation.

13       12.    Answering Paragraph 12 of the Complaint, Defendant denies each and  
14 every allegation.

15       13.    Answering Paragraph 13 of the Complaint, Defendant is without  
16 sufficient knowledge or information to form a belief as to the truth of the  
17 allegations, and on that basis, denies each and every allegation.

18       14.    Answering Paragraph 14 of the Complaint, Defendant is without  
19 sufficient knowledge or information to form a belief as to the truth of the  
20 allegations, and on that basis, denies each and every allegation.

21       15.    Answering Paragraph 15 of the Complaint, Defendant is without  
22 sufficient knowledge or information to form a belief as to the truth of the  
23 allegations, and on that basis, denies each and every allegation.

24       16.    Answering Paragraph 16 of the Complaint, Defendant admits only that  
25 Plaintiffs bought tickets online through Ticketmaster for the April 18, 2015  
26 Supercross event. As to the remaining allegations, Defendant is without sufficient  
27 knowledge or information to form a belief as to the truth of those allegations, and on  
28 that basis, denies them.

17. Answering Paragraph 17 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies each and every allegation.

18. Answering Paragraph 18 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies each and every allegation.

19. Answering Paragraph 19 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies each and every allegation.

20. Answering Paragraph 20 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies each and every allegation.

21. Answering Paragraph 21 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies each and every allegation.

22. Answering Paragraph 22 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies each and every allegation.

23. Answering Paragraph 23 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies each and every allegation.

24. Answering Paragraph 24 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies each and every allegation.

25. Answering Paragraph 19 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies each and every allegation.

26. Answering Paragraph 26 of the Complaint, Defendant is without

1 sufficient knowledge or information to form a belief as to the truth of the  
2 allegations, and on that basis, denies each and every allegation.

3       27.     Answering Paragraph 27 of the Complaint, Defendant is without  
4 sufficient knowledge or information to form a belief as to the truth of the  
5 allegations, and on that basis, denies each and every allegation.

6       28.     Answering Paragraph 28 of the Complaint, Defendant is without  
7 sufficient knowledge or information to form a belief as to the truth of the  
8 allegations, and on that basis, denies each and every allegation.

9       29.     Answering Paragraph 29 of the Complaint, Defendant is without  
10 sufficient knowledge or information to form a belief as to the truth of the  
11 allegations, and on that basis, denies each and every allegation.

12       30.     Answering Paragraph 30 of the Complaint, Defendant is without  
13 sufficient knowledge or information to form a belief as to the truth of the  
14 allegations, and on that basis, denies each and every allegation.

15       31.     Answering Paragraph 31 of the Complaint, Defendant is without  
16 sufficient knowledge or information to form a belief as to the truth of the  
17 allegations, and on that basis, denies each and every allegation.

18       32.     Answering Paragraph 32 of the Complaint, Defendant is without  
19 sufficient knowledge or information to form a belief as to the truth of the  
20 allegations, and on that basis, denies each and every allegation.

21       33.     Answering Paragraph 33 of the Complaint, Defendant is without  
22 sufficient knowledge or information to form a belief as to the truth of the  
23 allegations, and on that basis, denies each and every allegation.

24       34.     Answering Paragraph 34 of the Complaint, Defendant is without  
25 sufficient knowledge or information to form a belief as to the truth of the  
26 allegations, and on that basis, denies each and every allegation.

27       35.     Answering Paragraph 35 of the Complaint, Defendant is without  
28 sufficient knowledge or information to form a belief as to the truth of the

1 allegations, and on that basis, denies each and every allegation.

2 36. Answering Paragraph 36 of the Complaint, Defendant denies each and  
3 every allegation.

4 37. Answering Paragraph 37 of the Complaint, Defendant denies each and  
5 every allegation.

6 38. Answering Paragraph 38 of the Complaint, Defendant denies each and  
7 every allegation.

8 39. Answering Paragraph 39 of the Complaint, Defendant denies each and  
9 every allegation.

10 40. Answering Paragraph 40 of the Complaint, Defendant is without  
11 sufficient knowledge or information to form a belief as to the truth of the  
12 allegations, and on that basis, denies each and every allegation.

13 41. Answering Paragraph 41 of the Complaint, Defendant denies each and  
14 every allegation.

15 **FIRST CAUSE OF ACTION:**  
16 **VIOLATION OF THE ADA, TITLE III**  
17 **[42 U.S.C. §§ 12101 *et seq.*]**

18 **(As to Plaintiffs ABDUL NEVAREZ and PRISCILLA NEVAREZ**  
19 **against all Defendants)**

20 42. Answering Paragraph 42 of the Complaint, Defendant repleads and  
21 incorporates by reference, as if fully set forth again herein, the responses contained  
22 in paragraphs 1 through 41 of this Answer as set forth above.

23 43. Answering Paragraph 43 of the Complaint, Defendant is not required to  
24 answer legal conclusions and argument, and on that basis, denies each and every  
25 allegation.

26 44. Answering Paragraph 44 of the Complaint, Defendant is not required to  
27 answer legal conclusions and argument, and on that basis, denies each and every  
28 allegation.

1           45.    Answering Paragraph 45 of the Complaint, Defendant is not required to  
2 answer legal conclusions and argument, and on that basis, denies each and every  
3 allegation.

4           46.    Answering Paragraph 46 of the Complaint, Defendant is not required to  
5 answer legal conclusions and argument, and on that basis, denies each and every  
6 allegation.

7           47.    Answering Paragraph 47 of the Complaint, Defendant denies each and  
8 every allegation.

9           48.    Answering Paragraph 48 of the Complaint, Defendant denies each and  
10 every allegation.

11          49.    Answering Paragraph 49 of the Complaint, Defendant denies each and  
12 every allegation.

13          50.    Answering Paragraph 50 of the Complaint, Defendant denies each and  
14 every allegation.

15          51.    Answering Paragraph 51 of the Complaint, Defendant denies each and  
16 every allegation.

17          52.    Answering Paragraph 52 of the Complaint, Defendant denies each and  
18 every allegation.

19          53.    Answering Paragraph 53 of the Complaint, Defendant denies each and  
20 every allegation.

21          54.    Answering Paragraph 54 of the Complaint, Defendant denies each and  
22 every allegation.

23                               **SECOND CAUSE OF ACTION:**  
24                               **VIOLATION OF THE ADA, TITLE II [42 USC §§ 12201 *et seq.*]**  
25                               **(As to Plaintiffs ABDUL NEVAREZ and PRISCILLA NEVAREZ**  
                                  **against defendants CITY and STADIUM AUTHORITY only)**

26          55.    Answering Paragraph 55 of the Complaint, Defendant repleads and  
27 incorporates by reference, as if fully set forth again herein, the responses contained  
28 in paragraphs 1 through 54 of this Answer as set forth above.

56. Answering Paragraph 56 of the Complaint, Defendant is not required to answer legal conclusions and argument, and on that basis, denies each and every allegation.

57. Answering Paragraph 57 of the Complaint, Defendant is not required to answer legal conclusions and argument, and on that basis, denies each and every allegation.

58. Answering Paragraph 58 of the Complaint, Defendant denies each and every allegation.

59. Answering Paragraph 59 of the Complaint, Defendant denies each and every allegation.

60. Answering Paragraph 60 of the Complaint, Defendant denies each and every allegation.

61. Answering Paragraph 61 of the Complaint, Defendant denies each and every allegation.

**THIRD CAUSE OF ACTION:  
VIOLATION OF THE REHABILITATION ACT OF 1973  
[29 U.S.C. § 794]**

**(As to Plaintiff ABDUL NEVAREZ only against  
defendants CITY and STADIUM AUTHORITY only)**

62. Answering Paragraph 62 of the Complaint, Defendant replays and incorporates by reference, as if fully set forth again herein, the responses contained in paragraphs 1 through 61 of this Answer as set forth above..

63. Answering Paragraph 63 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, denies each and every allegation.

64. Answering Paragraph 64 of the Complaint, Defendant is not required to answer legal conclusions and argument, and on that basis, denies each and every allegation.

65. Answering Paragraph 65 of the Complaint, Defendant denies each and



1 every allegation.

2 66. Answering Paragraph 66 of the Complaint, Defendant denies each and  
3 every allegation.

4 67. Answering Paragraph 67 of the Complaint, Defendant denies each and  
5 every allegation.

6 **FOURTH CAUSE OF ACTION:**  
7 **VIOLATION OF CALIFORNIA GOVERNMENT CODE SECTION 11135**  
8 **(As to Plaintiff ABDUL NEVAREZ only against**  
9 **defendants CITY and STADIUM AUTHORITY only)**

10 68. Answering Paragraph 68 of the Complaint, Defendant repleads and  
11 incorporates by reference, as if fully set forth again herein, the responses contained  
12 in paragraphs 1 through 67 of this Answer as set forth above.

13 69. Answering Paragraph 69 of the Complaint, Defendant is without  
14 sufficient knowledge or information to form a belief as to the truth of the  
15 allegations, and on that basis, denies each and every allegation.

16 70. Answering Paragraph 70 of the Complaint, Defendant denies each and  
17 every allegation.

18 71. Answering Paragraph 71 of the Complaint, Defendant denies each and  
19 every allegation.

20 **FIFTH CAUSE OF ACTION:**  
21 **VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**  
22 **[Cal. Civil Code §§ 54 *et seq.* and**  
23 **California Health and Safety Code §§ 19955 *et seq.*]**  
24 **(As to Plaintiff ABDUL NEVAREZ and PRISCILLA NEVAREZ against all**  
25 **Defendants but as to ABDUL NEVAREZ only**  
26 **as to Health & Safety Code §§ 19955 *et seq.*)**

27 72. Answering Paragraph 72 of the Complaint, Defendant repleads and  
28 incorporates by reference, as if fully set forth again herein, the responses contained  
in paragraphs 1 through 71 of this Answer as set forth above.

73. Answering Paragraph 73 of the Complaint, Defendant is not required to  
answer legal conclusions and argument, and on that basis, denies each and every

1 allegation.

2       74.    Answering Paragraph 74 of the Complaint, Defendant is not required to  
3 answer legal conclusions and argument, and on that basis, denies each and every  
4 allegation.

5       75.    Answering Paragraph 75 of the Complaint, Defendant is not required to  
6 answer legal conclusions and argument, and on that basis, denies each and every  
7 allegation.

8       76.    Answering Paragraph 76 of the Complaint, Defendant denies each and  
9 every allegation.

10       77.    Answering Paragraph 77 of the Complaint, Defendant denies each and  
11 every allegation.

12       78.    Answering Paragraph 78 of the Complaint, Defendant denies each and  
13 every allegation.

14       79.    Answering Paragraph 79 of the Complaint, Defendant denies each and  
15 every allegation.

16       80.    Answering Paragraph 80 of the Complaint, Defendant denies each and  
17 every allegation.

18       81.    Answering Paragraph 81 of the Complaint, Defendant is not required to  
19 answer legal conclusions and argument, and on that basis, denies each and every  
20 allegation.

21       82.    Answering Paragraph 82 of the Complaint, Defendant denies each and  
22 every allegation.

23       83.    Answering Paragraph 83 of the Complaint, Defendant denies each and  
24 every allegation.

25       84.    Answering Paragraph 84 of the Complaint, Defendant denies each and  
26 every allegation.

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1                                   **SIXTH CAUSE OF ACTION:**  
2                                   **VIOLATION OF UNRUH CIVIL RIGHTS ACT**  
3                                   **[Cal. Civil Code §§ 51 *et seq.*]**  
4                                   **(As to both Plaintiffs ABDUL NEVAREZ and**  
                                      **PRISCILLA NEVAREZ against all Defendants)**

5           85.    Answering Paragraph 85 of the Complaint, Defendant repleads and  
6 incorporates by reference, as if fully set forth again herein, the responses contained  
7 in paragraphs 1 through 84 of this Answer as set forth above.

8           86.    Answering Paragraph 86 of the Complaint, Defendant is not required to  
9 answer legal conclusions and argument, and on that basis, denies each and every  
10 allegation.

11          87.    Answering Paragraph 87 of the Complaint, Defendant is not required to  
12 answer legal conclusions and argument, and on that basis, denies each and every  
13 allegation.

14          88.    Answering Paragraph 88 of the Complaint, Defendant denies each and  
15 every allegation.

16          89.    Answering Paragraph 89 of the Complaint, Defendant denies each and  
17 every allegation.

18          90.    Answering Paragraph 90 of the Complaint, Defendant denies each and  
19 every allegation.

20          In addition, Defendants assert the following affirmative defenses with respect  
21 to all of Plaintiffs' claims and causes of action.

22                                   **AFFIRMATIVE DEFENSES**

23                                   **FIRST AFFIRMATIVE DEFENSE**

24                                   (Failure to State a Claim)

25          1.     The Complaint, and each and every claim therein, fails to state a claim  
26 for which relief can be granted and should, therefore, be dismissed.

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standards, the features nonetheless provided effective access to Plaintiffs because any alleged noncompliance was de minimis, the features were usable and accessible despite their alleged noncompliance, and/or Plaintiffs were able to use and access the features.

#### **FIFTH AFFIRMATIVE DEFENSE**

(Removal of Architectural Barriers Was Not Readily Achievable)

5. Any allegedly wrongful acts or omissions performed by Defendant or its agents, if there were any, do not subject Defendant to liability because the removal of the alleged barriers identified in the Complaint was not readily achievable or easily accomplishable and/or able to be carried out without much difficulty or expense when taking into account the factors set forth at 42 U.S.C. § 12181.

#### **SIXTH AFFIRMATIVE DEFENSE**

(Alterations Were Made to Ensure that the Facility Would Be Readily Accessible to the Maximum Extent Feasible)

6. Without conceding that Defendant made any “alterations” within the meaning of disability access laws, any allegedly wrongful acts or omissions performed by Defendant or its agents, if there were any, do not subject Defendant to liability because any “alterations,” including to the features alleged in the Complaint, were made to ensure that the facility would be readily accessible to the maximum extent feasible. 28 C.F.R. § 36.402.

#### **SEVENTH AFFIRMATIVE DEFENSE**

(Defendant Provided Services Via Alternative Methods)

7. Any allegedly wrongful acts or omissions performed by Defendant or its agents, if there were any, do not subject Defendant to liability because Defendant accommodated or was ready and willing to accommodate Plaintiffs’ alleged disability by providing access via “alternative methods” other than the removal of alleged barriers (42 U.S.C. §12182), such as, by personally assisting Plaintiffs

1 overcome/deal with any of the barriers alleged in the Complaint.

2 **EIGHTH AFFIRMATIVE DEFENSE**

3 (Unclean Hands)

4 8. Plaintiffs' claims are barred under the doctrine of unclean hands.

5 **NINTH AFFIRMATIVE DEFENSE**

6 (Technically Infeasible)

7 9. Any allegedly wrongful acts or omissions performed by Defendant or  
8 its agents, if there were any, do not subject Defendant to liability because full  
9 compliance with the standards for the alleged barriers identified in the Complaint  
10 would be technically infeasible.

11 **TENTH AFFIRMATIVE DEFENSE**

12 (Undue Burden)

13 10. Insofar as Defendant has not made alterations to the facilities at issue,  
14 which Plaintiffs contend should have been made, those changes were not and are not  
15 required under federal or California law, and any requirements to make those  
16 changes would impose an undue burden upon Defendant.

17 **ELEVENTH AFFIRMATIVE DEFENSE**

18 (Estoppel)

19 11. Plaintiffs are estopped by their conduct from recovering any relief  
20 under the Complaint.

21 **TWELFTH AFFIRMATIVE DEFENSE**

22 (Waiver)

23 12. Plaintiffs' claims are barred, in whole or in part, by the doctrine of  
24 waiver.

25 **THIRTEENTH AFFIRMATIVE DEFENSE**

26 (Failure to Mitigate Damages)

27 13. Plaintiffs failed to properly mitigate their alleged damages and  
28 therefore are precluded from recovering those alleged damages.

1                                   **FOURTEENTH AFFIRMATIVE DEFENSE**

2                                   (Indispensable Party)

3           14.   Plaintiffs' alleged claims are barred, in whole or in part, because of  
4 their failure to name an indispensable party or parties.

5                                   **FIFTEENTH AFFIRMATIVE DEFENSE**

6                                   (Fundamental Alteration)

7           15.   Any allegedly wrongful acts or omissions performed by Defendant or  
8 its agents, if there were any, do not subject Defendant to liability because the relief  
9 demanded in the Complaint would, if granted, result in a fundamental alteration of  
10 Defendant's services.

11                                  **SIXTEENTH AFFIRMATIVE DEFENSE**

12                                  (Legitimate Business Justifications)

13           16.   The Complaint, and each and every purported claim alleged therein,  
14 fails to state facts sufficient to constitute a claim against Defendant because any  
15 action taken with respect to Plaintiffs were for legitimate, non-discriminatory  
16 business reasons unrelated to Plaintiffs' alleged disability or other asserted protected  
17 status.

18                                  **SEVENTEENTH AFFIRMATIVE DEFENSE**

19                                  (No Damages)

20           17.   Defendant is informed and believed and based thereon allege that  
21 Plaintiffs have not suffered any damage as a result of any actions taken by  
22 Defendant, and Plaintiffs are thereby barred from asserting any such claim against  
23 Defendant.

24                                  **EIGHTEENTH AFFIRMATIVE DEFENSE**

25                                  (Good Faith)

26           18.   Defendant and its agents, if any, acted reasonably and in good faith at  
27 all times material herein, based on all relevant facts, law, and circumstances known  
28 by them at the time that they acted. Accordingly, Plaintiffs are barred, in whole or

1 in part, from any recovery in this action.

2 **NINETEENTH AFFIRMATIVE DEFENSE**

3 (Mootness)

4 19. Plaintiffs' claims are barred under the doctrine of mootness.

5 **TWENTIETH AFFIRMATIVE DEFENSE**

6 (Lack of Notice)

7 20. Plaintiffs' claims are barred because Plaintiffs failed to provide any  
8 notice to Defendant regarding the alleged accessibility issues prior to filing this  
9 lawsuit.

10 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

11 (Equivalent Facilitation)

12 21. Any allegedly wrongful acts or omissions performed by Defendant or  
13 its agents, if there were any, do not subject Defendant to liability because Defendant  
14 provided equivalent facilitation with respect to the barriers alleged in the Complaint.

15 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

16 (Defenses Under Federal Rules of Civil Procedure)

17 22. Plaintiffs' claims may be barred by any or all of the affirmative  
18 defenses contemplated by Rules 8 and 12 of the Federal Rules of Civil Procedure.  
19 The extent to which Plaintiffs' claims may be barred cannot be determined until  
20 Defendant have an opportunity to complete discovery. Therefore, Defendant  
21 incorporates all such affirmative defenses as though fully set forth herein.

22 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

23 (Arbitration)

24 23. Any allegedly wrongful acts or omissions performed by Defendant or  
25 its agents, if there were any, do not subject Defendant to liability because this  
26 lawsuit and/or all of Plaintiffs' claims against Defendant are subject to mandatory  
27 arbitration and Plaintiffs' claims cannot properly be adjudicated in this forum.



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(Reasonable Modifications to Policies, Practices and Procedures)

24. Plaintiffs' claims are barred because Defendant made and/or was willing to make reasonable modifications to its policies, practices, and/or procedures to accommodate Plaintiff's alleged disabilities, but Plaintiffs never sought or requested any such accommodations.

**PRAYER**

**WHEREFORE**, Defendant prays that this Court enter a judgment as follows:

1. That the Complaint be dismissed with prejudice and that judgment be entered in favor of Defendant;

2. That Plaintiffs take nothing by way of their Complaint;

3. That Defendant be awarded its costs of suit incurred in defense of this action, including its reasonable attorney's fees; and

4. For such further and other relief as the Court may deem just and proper.

Dated: January 19, 2017

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By /s/ Gregory F. Hurley  
GREGORY F. HURLEY

Attorneys for Defendant  
TICKETMASTER L.L.C. (erroneously sued as  
TICKETMASTER ENTERTAINMENT, INC.)

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**DEMAND FOR JURY TRIAL**

Defendant hereby demands a trial by jury.

Dated: January 19, 2017

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By                     /s/ Gregory F. Hurley                      
GREGORY F. HURLEY

Attorneys for Defendant  
TICKETMASTER L.L.C. (erroneously sued as  
TICKETMASTER ENTERTAINMENT, INC.)